



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,899	11/28/2001	Robert J. Macdonald	34200	1559

116 7590 03/12/2003

PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114-1484

EXAMINER

CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,899

Applicant(s)

MACDONALD, ROBERT J.

Examiner

Fredrick C Conley

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5-6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,723,331 Weiss.

In reference to claim 1, Weiss discloses a fitted sheet for a mattress comprising a rectangular panel 34 of knit material having a central rectangular area extending from one end of said panel to the other end thereof, and side margins (40,42) flanking said central area, said side margins being folded under said central area and joined thereto by seams (col. 3 lines 62-63) extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (col. 3 lines 35-65).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that from end to end thereof (fig. 5).

Regarding claim 3, further characterized in that on each side of said mid-line of said central area, at each end of said sheet, said seam curves downwardly toward a folded side edge of said sheet (fig. 5).

Regarding claim 4, further characterized in that said seam is inherently flatter near said mid-line, and more convex near said folded side edge of said sheet.

Art Unit: 3673

In reference to claim 5, Weiss discloses a sheet comprising a rectangular panel of knit material 34 having a central rectangular area extending from one end of said panel to the other end thereof, and side margins (40,42) flanking said central area, said side margins being folded under said central area and joined thereto by seams (col. 3 lines 62-63) extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (col. 3 lines 35-65).

Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,765,241 to MacDonald.

In reference to claim 10, MacDonald discloses a method of making a fitted sheet, comprising the steps of:

cutting a predetermined length of a tube of knit fabric (col. 2 lines 17-18);

slitting said length of fabric along it's length in a straight line from end to end (col. 2 lines 18-21);

arranging said fabric so that the slit edges of said fabric are folded over onto the main body of said fabric; and

sewing a seam across each end of the fabric, thereby to join the folded over edges of the fabric to the main body thereof in a folded over state (col. 2 lines 21-26).

In reference to claim 14, MacDonald discloses a method of making a fitted sheet comprising the steps of;

cutting a predetermined length of a tube of knit fabric (col. 2 lines 17-18);

slitting said tube of fabric along an edge thereof, from end to end (col. 2 lines 18-21);

cutting a shallow corner from each end of said tube of fabric, at the slit side thereof, from first points on the cut edge near the end to second points on the end, near the folded –over midline of the slit tube of fabric (col. 2 lines 21-24);

opening the fabric, and folding the side margins thereof inwardly so that at each corner thereof, the said first points are laid on top of said second points (col. 2 lines 24-26); and

sewing a seam across the top and bottom ends of the fabric, to join the folded over margins to the main body of the sheet (col. 3 lines 7-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,765,241 to MacDonald in view of U.S. Pat. No. 2,942,280 to May.

Regarding claims 11-13, MacDonald discloses all of the Applicant's claimed limitations except for said slit edges are sewn to said main body in an unfinished state. May discloses a fitted sheet where the slit edges are sewn to the main body in an unfinished state wherein the edges are curled inwardly before being seamed to said main body of said fabric, and the seams are generally convexly arcuate (col. 4 lines 13-30)(fig. 4). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the edges sewn in an unfinished state and curled inwardly in order to provide a snug fit between the side and end walls of the sheet and the mattress.

Claims 6, 9, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,723,331 to Weiss in view of U.S. Pat. No. 2,942,280 to May.

Regarding claims 6, 9, and 15-20, Weiss discloses all of the Applicant's claimed limitations except for an unfinished edge rolled into a curled edge prior to being sewn. May discloses an elastic material 25 having an unfinished edge rolled/enclosed into a curled edge of a length of soft material 26 prior to being sewn (col. 4 lines 14-21). It would have been obvious to one having ordinary skill in the art at the time of the invention to enclose an unfinished edge of elastic material within a curled edge in order to for the sheet to be stretched over a mattress and snapped into position.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,723,331 to Weiss in view of U.S. Pat. No. 2,942,280 to May, and further in view of U.S. Pat. No. 5,765,241 to MacDonald.

Regarding claims 7-8, Weiss, as modified, discloses all of the Applicant's claimed limitations except for the panel of material fabricated from a tube of knit material. MacDonald discloses constructing a fitted sheet with panel of material fabricated from a tube of knit material (col. 2 lines 17-26). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a tube of knit material in order to manufacture a fitted sheet.

Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2168.

FG

March 4, 2003